IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 9904 of 1992

Between:

G.Venkata Naresh Kumar, s/o. G.Ramachandra Reddy
@ R.R.Gundu, Depot Store Keeper, General Stores Depo,
South Central Railways, Hubli

..... PETITIONER

AND

1)The District Collector, Cuddapah
2)The Mandal Revenue Officer, Nandolu

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction particularly writ of mandamus directing the respondents not to enforce the order in reference no. B8.4745/92, dated 18.06.1992 of the first respondent, declaring that the said order, cancelling the caste certificate of petitioner as null and void.

Counsel for the Petitioner: MR.G.RAMACHANDRA REDDY

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

O R D E R :

Heard both sides. The petitioner, who is working as a Depot Store Keeper Grade II in South Central Railway, Hubli, filed this Writ Petition, *inter alia*, seeking for a Writ of Mandamus directing the respondents not to

enforce impugned orders dated 18.06.1992 cancelling the caste certificate issued in his favour.

Case of the petitioner is that he is resident of Nagireddypalli village of Nandulur mandal, Cuddapah district and belongs to 'Kanda Kapu' by caste. He was born on 30.06.1959 and studied at Nandulur and Cuddapah up to graduation, and all the while, he has been shown as 'Kanda Kapu' and obtained caste certificate from the then Tahsildar, Rajampet on 04.08.1980. Thereafter, he joined services of Railways and had been working as such to the utmost satisfaction. He was given several promotions in the said department. However, on 11.03.1998, on a complaint, the Vigilance Inspector of SDGH's Office of the Railways directed him to produce original birth certificate. The petitioner could not submit the same as the relevant records in the concerned office were set fire and so, he was directed to approach the Director of Tribunal Welfare, Andhra Pradesh, Hyderabad, on 11.10.1988. It is the case of the petitioner that even though he appeared on 11.10.1988, he is not aware of the subsequent proceedings since he was not intimated about the same including any orders passed. Thereafter, the District Collector, Cuddapah passed impugned orders on 18.06.1992 cancelling the petitioner's caste certificate. Therefore, the impugned action is one without any prior notice and opportunity, and no enquiry having been conducted, the same can not be held to be valid. Further, it is the case of the petitioner that

his entire family belongs to the said caste and therefore, they are entitled to the said certificate. The petitioner's father made a representation regarding their caste, residence, and employment, but the same also is not considered. Even the service register of petitioner's father shows that he belongs to 'Kanda Kapu-S.T. community'. Therefore, there is no justification in cancelling the caste certificate. Hence, the Writ Petition.

In the counter affidavit filed by the first respondent, it is stated that it is only on the basis of the complaint and in turn on the report of the Mandal Revenue Officer, Nandolu, the petitioner was treated as not belonging to Konda Kapu caste and therefore, the certificate issued in his favour was cancelled in the impugned orders. It was further stated that the enquiry conducted by themselves revealed that the petitioner, in fact, does not belong to the said caste and therefore, he is not entitled to any such certificate. In view of the same, the Writ Petition is liable to be dismissed.

Having heard the counsel on either side and on perusal of the material, the point which crops up for consideration is as to whether the impugned proceedings are sustainable in view of absence of any proper enquiry and prior notice ?

There is no dispute to the fact that the petitioner is working in regular service and it is only on the basis of

the complaint received, the present proceedings were initiated and ultimately, the caste certificate of the petitioner was cancelled. There is also no dispute to the fact that the said Certificate was issued to the petitioner by the then Tahsildar on 04.08.1990 showing that the petitioner belongs 'Konda Kapu' community, whereupon the petitioner successfully got employment in the Railways. Though notice has been issued on 10.10.1988, there was no proper enquiry in the presence of the petitioner nor any opportunity has been provided to the petitioner to substantiate his case or to rebut any allegations as made against him. However, it is only in pursuance of the letter issued by the General Manager on 08.05.1989, the first respondent straight away passed orders on 18.06.1992. Admittedly, no prior notice was given to the petitioner nor any enquiry was conducted by the District Collector before issuing the impugned order dated 18.06.1992. On the face of it, the impugned proceedings are totally without any prior notice and enquiry, and therefore, violative of principles of natural justice. The question as to whether the petitioner belongs to the said caste or not, has to be decided by taking into consideration the evidence received from both sides. In this case, admittedly, there being no such enquiry, it can not be said that the orders passed are valid. The impugned orders are totally violative of principles of natural justice and are liable to be set aside.

The Writ Petition is, accordingly, allowed setting

aside the impugned orders dated 18.06.1992. It shall, however, be open for the authorities concerned to take appropriate steps after giving due notice and opportunity. No costs.

(B.Prakash Rao, J.)

03.02.2005
DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on Thursday, the third day of February two thousand and five.

… Registrar

Copy to:

1)The District Collector, Cuddapah
2)The Mandal Revenue Officer, Nandolu, Cuddapah district
3)Two CCs to the G.P. for Revenue, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

4)Two CD copies.